

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-192-E - ORDER NO. 2021-773  
NOVEMBER 24, 2021

IN RE: Dominion Energy South Carolina,	)	ORDER GRANTING
Incorporated's Coal Retirement Docket	)	MOTION OF
Opened Pursuant to Commission Order No.	)	BRIGHTNIGHT, LLC TO
2021-418	)	INTERVENE OUT OF
	)	TIME

**I. INTRODUCTION**

The Public Service Commission (Commission) opened a coal retirement docket pursuant to Commission Order No. 2021-418 for the purpose of allowing Dominion Energy South Carolina, Incorporated (DESC) and other parties to “advise the Commission on an appropriate procedural schedule along with any statutory or regulatory deadlines that might need to be addressed” stemming from the retirement and conversions of several DESC plants. (Order No. 2021-418). The Clerk’s Office issued a Notice for Intervention and Comment on June 23, 2021, establishing a deadline of August 2, 2021, for intervention. On October 15, 2021, BrightNight, LLC (BrightNight) filed a petition with the Commission seeking allowance to intervene as a party of record in the docket. We grant the petition of BrightNight to intervene out of time.

**II. FACTS AND PROCEDURAL HISTORY**

This docket, 2021-192-E, began on June 9, 2021, as a result of revisions DESC made to its 2020 IRP which resulted in DESC’s Resource Plan 8 as the portfolio chosen as

DESC's resource plan. That plan retires or converts various coal plants. The Commission took action to open a DESC Coal Retirement Docket to review the matters before the Commission. The deadline for intervention into the docket was noticed for August 2, 2021. It is further noted the procedural schedule for the hearing and for the submission of testimony in the docket was modified on October 27, 2021. It is also noted the Commission granted the September 8, 2021, petition out of time of another intervenor, the South Carolina Energy Users Committee (SCEUC).

After the deadline for intervention, on October 15, 2021, BrightNight petitioned to intervene in the proceeding. BrightNight, a Delaware limited liability company, asserted it "has a substantial and specific economic interest in the development and operation of renewable energy in South Carolina," and stated it is a "developer of renewable energy projects . . . with plans to identify and develop future renewable energy projects in South Carolina." (Petition, p. 2). BrightNight contends Docket No. 2021-192-E "will affect opportunities to develop renewables and clean energy alternatives in South Carolina—which squarely impacts the demand and economics for the exact type of clean energy projects in which BrightNight specializes." (*Id.*) BrightNight goes on to state that its "commercial plans and opportunity would be directly and substantially affected by the outcome of this proceeding." (*Id.*)

BrightNight asserts it did not become aware of the docket until after the deadline for intervention passed; it has obtained South Carolina counsel; and its participation will not prejudice or inconvenience any party. (*Id.*, pp. 2-3). No party filed an objection to the petition of BrightNight to intervene out of time.

### **III. APPLICABLE LAW**

Petitions may be submitted to the Commission for any relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority. Petitions which may be filed include:

. . . Petition to Intervene . . . .

A. Content of Petitions. Petitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief. The following requirements are applicable to specific types of Petitions:

. . .

(3) A Petition to Intervene in a proceeding before the Commission shall set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention;
- (c) The position of the petitioner in the proceeding.

S.C. Code Ann. Regs. 103-825 (2012).

### **IV. FINDINGS OF FACT**

After review of the petition and the law, the Commission makes the following findings of fact:

1. BrightNight submitted a petition to the Commission to intervene out of time, providing its reasons for, and interest in, the proceeding.

2. The petition indicates the company is “a developer of renewable energy projects throughout the United States with plans to identify and develop future renewable energy projects in South Carolina.” (Petition, p. 2). The company goes on to assert its “commercial plans and opportunity would be directly and substantially affected by the outcome of this proceeding.” (*Id.*)

3. No party objected to the petition of BrightNight to intervene in this docket.

4. BrightNight represents it is a Delaware corporation and was not aware of the docket in time to intervene by the noticed deadline.

5. BrightNight states good cause as to why it should be allowed late intervention in the docket.

6. BrightNight has obtained legal counsel authorized to practice law in South Carolina.

7. BrightNight indicates its participation in the docket “would not inconvenience or prejudice the parties,” and cites to the procedural delay allowed by the Commission at the request of the parties, such that the hearing was rescheduled to June 30, 2022. (*Id.*, p. 3).

8. Allowing late intervention will not prejudice any parties in the docket.

#### **V. CONCLUSIONS OF LAW**

1. The Commission has the authority to grant a petition to intervene pursuant to S.C. Code Ann. Regs. 103-825 (2012).

2. BrightNight meets the requirements for intervention stated in Regulation 103-825, and there were no objections to the petition.

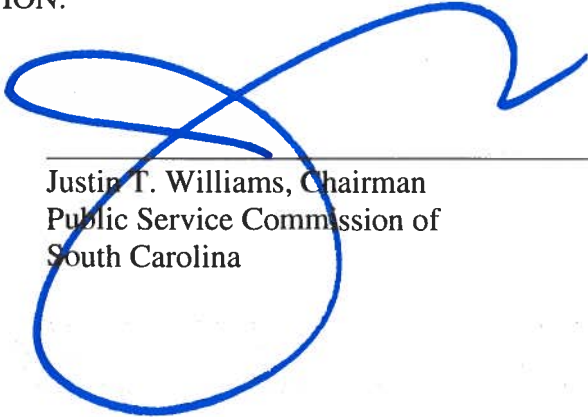
#### **VI. ORDERING PROVISIONS**

##### **IT IS THEREFORE ORDERED:**

1. The petition of BrightNight, LLC to intervene out of time in this docket is granted.

2. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



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Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina